



OFFICE OF THE UNDER SECRETARY OF DEFENSE
4000 DEFENSE PENTAGON
WASHINGTON, D.C. 20301-4000



PERSONNEL AND
READINESS

07 JAN 2004

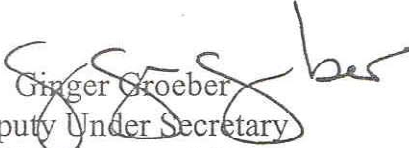
MEMORANDUM FOR: SEE DISTRIBUTION LIST

SUBJECT: Common Standards for Differential Payments Based on Asbestos Exposure

Section 1122 of the National Defense Authorization Act for Fiscal Year 2004 (Public Law 108-136, November 24, 2003) amends Sections 5343(c)(4) and 5545(d) of title 5, United States Code. This amendment establishes a requirement that payment of environmental differential pay (Federal Wage System employees) and hazardous duty pay (General Schedule employees) for exposure to asbestos be based on standards issued by the Occupational Safety and Health Administration (OSHA). A copy of section 1122 is attached for your information.

The amendment requires that all related administrative or judicial determinations regarding backpay entitlement subsequent to the date of enactment, November 24, 2003, be based on the OSHA standard. As a result, any claim, grievance, or arbitration currently in process must use the OSHA standard in making such determinations.

My point of contact concerning this matter is Mr. Steven Rumble. You can reach him at (703) 696-1268.


Ginger Groeber
Deputy Under Secretary
Civilian Personnel Policy

Attachment:
As stated



DISTRIBUTION: ASSISTANT G-1 FOR CIVILIAN PERSONNEL POLICY,
DEPARTMENT OF THE ARMY
DIRECTOR, PLANS, PROGRAMS, AND DIVERSITY,
DEPARTMENT OF THE NAVY
DEPUTY DIRECTOR, PERSONNEL FORCE MANAGEMENT,
DEPARTMENT OF THE AIR FORCE
DIRECTOR FOR MANPOWER AND PERSONNEL (J-1),
JOINT CHIEFS OF STAFF
DIRECTOR, PERSONNEL AND SECURITY,
DEPARTMENT OF DEFENSE INSPECTOR GENERAL
DIRECTOR, HUMAN RESOURCES MANAGEMENT, DEFENSE
COMMISSARY AGENCY
CHIEF, HUMAN RESOURCES MANAGEMENT DIVISION,
DEFENSE CONTRACT AUDIT AGENCY
DIRECTOR FOR CORPORATE RESOURCES,
DEFENSE FINANCE AND ACCOUNTING SERVICE
CHIEF, CIVILIAN PERSONNEL DIVISION, DEFENSE
INFORMATION SYSTEMS AGENCY
CHIEF, OFFICE OF HUMAN RESOURCES,
DEFENSE INTELLIGENCE AGENCY
DIRECTOR, HUMAN RESOURCES,
DEFENSE LOGISTICS AGENCY
EXECUTIVE DIRECTOR, HUMAN RESOURCES, DEFENSE
CONTRACT MANAGEMENT AGENCY
DIRECTOR, HUMAN RESOURCES, DEFENSE SECURITY
SERVICE
CHIEF, CIVILIAN PERSONNEL DIVISION, DEFENSE THREAT
REDUCTION AGENCY
DIRECTOR, HUMAN RESOURCES,
NATIONAL GEOSPATIAL - INTELLIGENCE AGENCY
DIRECTOR, HUMAN RESOURCES SERVICES,
NATIONAL SECURITY AGENCY
DIRECTOR, PERSONNEL CENTER, DEPARTMENT OF DEFENSE
EDUCATION ACTIVITY
DIRECTOR FOR PERSONNEL AND SECURITY,
WASHINGTON HEADQUARTERS SERVICES
DIRECTOR, CIVILIAN HUMAN RESOURCES MANAGEMENT,
UNIFORMED SERVICES UNIVERSITY OF THE HEALTH
SCIENCES
DIRECTOR FOR HUMAN RESOURCES, NATIONAL GUARD
BUREAU
COMMANDER, HEADQUARTERS, ARMY AND AIR FORCE
EXCHANGE SERVICE

11-26

1 (b) COMMENSURATE EXTENSION OF REQUIREMENT FOR
2 ANNUAL REPORT.—Subsection (g) of such section is amended
3 by striking “2006” and inserting “2009”.

4 **Subtitle C—Other Federal Govern-**
5 **ment Civilian Personnel Matters**

6 **SEC. 1121. MODIFICATION OF THE OVERTIME PAY CAP.**

7 Section 5542(a)(2) of title 5, United States Code, is
8 amended—

9 (1) by inserting “the greater of” before “one and one-
10 half”; and

11 (2) by inserting “or the hourly rate of basic pay of the
12 employee” after “law” the second place it appears.

13 **SEC. 1122. COMMON OCCUPATIONAL AND HEALTH**
14 **STANDARDS FOR DIFFERENTIAL PAYMENTS**
15 **AS A CONSEQUENCE OF EXPOSURE TO AS-**
16 **BESTOS.**

17 (a) PREVAILING RATE SYSTEMS.—Section 5343(c)(4) of
18 title 5, United States Code, is amended by inserting before the
19 semicolon at the end the following: “, and for any hardship or
20 hazard related to asbestos, such differentials shall be deter-
21 mined by applying occupational safety and health standards
22 consistent with the permissible exposure limit promulgated by
23 the Secretary of Labor under the Occupational Safety and
24 Health Act of 1970”.

25 (b) GENERAL SCHEDULE PAY RATES.—Section 5545(d)
26 of such title is amended by inserting before the period at the
27 end of the first sentence the following: “, and for any hardship
28 or hazard related to asbestos, such differentials shall be deter-
29 mined by applying occupational safety and health standards
30 consistent with the permissible exposure limit promulgated by
31 the Secretary of Labor under the Occupational Safety and
32 Health Act of 1970”.

33 (c) APPLICABILITY.—Subject to any vested constitutional
34 property rights, any administrative or judicial determination
35 after the date of enactment of this Act concerning backpay for
36 a differential established under sections 5343(c)(4) or 5545(d)
37 of such title shall be based on occupational safety and health

11-27

1 standards described in the amendments made by subsections
2 (a) and (b).

3 **SEC. 1123. INCREASE IN ANNUAL STUDENT LOAN RE-**
4 **PAYMENT AUTHORITY.**

5 (a) INCREASE.—Section 5379(b)(2)(A) of title 5, United
6 States Code, is amended by striking “\$6,000” and inserting
7 “\$10,000”.

8 (b) EFFECTIVE DATE.—The amendment made by sub-
9 section (a) shall take effect on January 1, 2004.

10 **SEC. 1124. AUTHORIZATION FOR CABINET SECRE-**
11 **TARIES, SECRETARIES OF MILITARY DE-**
12 **PARTMENTS, AND HEADS OF EXECUTIVE**
13 **AGENCIES TO BE PAID ON A BIWEEKLY**
14 **BASIS.**

15 (a) AUTHORIZATION.—Section 5504 of title 5, United
16 States Code, is amended—

17 (1) by redesignating subsection (c) as subsection (d);

18 (2) by striking the last sentence of both subsection (a)

19 and subsection (b); and

20 (3) by inserting after subsection (b) the following:

21 “(c) For the purposes of this section:

22 “(1) The term ‘employee’ means—

23 “(A) an employee in or under an Executive agen-
24 cy;

25 “(B) an employee in or under the Office of the Ar-
26 chitect of the Capitol, the Botanic Garden, and the Li-
27 brary of Congress, for whom a basic administrative
28 workweek is established under section 6101(a)(5) of
29 this title; and

30 “(C) an individual employed by the government of
31 the District of Columbia.

32 “(2) The term ‘employee’ does not include—

33 “(A) an employee on the Isthmus of Panama in
34 the service of the Panama Canal Commission; or

35 “(B) an employee or individual excluded from the
36 definition of employee in section 5541(2) of this title
37 other than an employee or individual excluded by

